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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/038,186	10/24/2001	Miruka Ishii	450100-03560	7242
20999	7590	06/29/2005	EXAMINER	
FROMMER LAWRENCE & HAUG 745 FIFTH AVENUE- 10TH FL. NEW YORK, NY 10151			RHODE JR, ROBERT E	
			ART UNIT	PAPER NUMBER
			3625	

DATE MAILED: 06/29/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/038,186	Applicant(s) ISHII, MIRUKA	
	Examiner Rob Rhode	Art Unit 3625	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-55 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☐ Claim(s) ____ is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☒ Claim(s) 1-55 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1 - 15 are drawn to a data communication system comprising a first terminal, server and second terminal, classified in class 709, and subclass 219.
- II. Claims 16 - 30 are drawn to a server device with first terminal, storing means and controlling means and receiving means with ID's, classified in class 709, subclass 748.
- III. Claims 31 - 38 are drawn to information processing terminal device for transmitting to a server device, classified in class 709, subclass 734.
- IV. Claims 39 - 48 are drawn to a information processing terminal device and method for displaying, selecting communicating and controlling, classified in class 709, subclass 739.
- V. Claim 49 is drawn to a method for data communication, which allows for transmitting first and second content and second terminal displaying, classified in class 709, subclass 751.
- VI. Claim 50 is drawn to a data communication method for a first terminal and second terminal transmitting to second terminal devices information provider information including content, classified in class 705, subclass 51.
- VII. Claim 51 is drawn data communication method for an information processing terminal, which includes a server device for receiving content requests

from other information processing terminal devices, classified in class 705, subclass 53.

VIII. Claims 52 and 54, are drawn to data communication method and program for an information processing terminal, with transmitting information providers with sever device receiving second contents, classified in Class 705, subclass 55.

VIII. Claim 53 is drawn to storage medium, which stores a computer-controllable program with transmitting and receiving of first content and receiving second contents from first terminal, classified in class 705, subclass 50.

X. Claim 55 is drawn to Storage medium for a computer program with an information processing device, with displaying information sent from a server device and receiving from server second contents, classified in class 705, subclass 51.

Inventions Groups I - X are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. The subject matters of each of these groups are divergent from each other and therefore a separate search and consideration of each Group would be required. Thereby in the instant case, each Group has separate utility. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Species

In the event the applicant elects Group III above, the applicant is further obligated to elect one among the following species as follows:

This application contains claims directed to the following patentably distinct species of the claimed invention:

IIIa - Species of claims 32, 33 and 36 – 38.

IIIb - Species of claims 34 and 35.

In the event the applicant elects Group IV above, the applicant is further obligated to elect one among the following species as follows:

This application contains claims directed to the following patentably distinct species of the claimed invention:

IVa - Species of claims 40 – 42 and 47.

IVb - Species of claims 43 - 45.

IVc. Species of claim 46.

IVd. Species of claim 48.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, Claim 1 is generic for Group I, Claim 14 is generic for Group II, and Claim 28 is generic for Group III.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

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are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).


Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rob Rhode whose telephone number is 571.272.6761. The examiner can normally be reached on M-F 7:30am - 4:00pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571.272.7159.

The fax phone numbers for the organization where this application or proceeding is assigned for regular communications and 703.308.3687 for After Final communications.

RER



Jeffrey A. Smith
Primary Examiner